

DEPARTMENT OF STATE REVENUE

99980110.LOF

LETTER OF FINDINGS NUMBER: 98-0110 MVE

Motor Vehicle Excise Tax

For Tax Period: 8/31/95 Through 8/31/96

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Departments official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax - Imposition

Authority: IC 9-13-2-78; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on his 1995 Infiniti.

STATEMENT OF FACTS

Taxpayer was an Ohio resident prior to obtaining employment and residency in Indiana. Taxpayer filed a part-year resident individual income tax return in Indiana in 1995 and filed a full-year resident return for 1996. Taxpayer registered his vehicle in Indiana in August, 1996. The Department assessed the motor vehicle excise tax against the taxpayer from August, 1995 through August, 1996. Additional facts will be presented below, as necessary.

I. Motor Vehicle Excise Tax - Imposition

DISCUSSION

Taxpayer claims he does not owe the assessed motor vehicle excise tax, because he was not a resident of Indiana throughout the assessment period. Taxpayer claims he started a new job located in Indiana in July, 1995. Taxpayer claims prior to this he and his wife sold their Ohio residence and moved their essential belongings into her parents home in Ohio. They stored the rest of their belongings until a new home could be purchased. Taxpayer argues his initial months in Indiana were on an at risk basis because he was going through a probationary period. Taxpayer rented an apartment during this time, filed an Indiana part-year resident return for 1995, and took the renters deduction of \$1,500. Taxpayer purchased a home in February, 1996, but claims he and his wife did not move until May, 1996.

Pursuant to IC 9-18-2-1, within sixty days of becoming an Indiana resident, a person must register all motor vehicles which will be operated in Indiana. IC 9-13-2-78 defines an Indiana resident. Included in this definition are individuals who are living in Indiana and have no other legal residence. Considering the evidence provided, the Department finds the taxpayer had no legal residence other than Indiana throughout the assessment period.

Taxpayers 1995 part-year Indiana income tax return states taxpayer rented for five months in Indiana and took the renters deduction. This deduction is allowed only for a taxpayers principal address. Taxpayer also filed an Indiana full-year resident return for 1996. The taxpayer insured his vehicle in Indiana and had no residence in another state. Although taxpayer claims his intention was to remain an Ohio resident until he moved into his Indiana home in May, 1996, the Department finds no evidence of such intention.

FINDING

Taxpayers protest is denied.